CALIFORNIA★POLITICAL
REVIEW
SUMMER 1995 • VOLUME 6 • NUMBER 3 • $6

Time for Bureaucratic Liposuction

By Tom McClintock

Routing the Knaves

By Leon McKinney

Orange County votes down Measure R

Pure No Fault and Wage and Price Controls

A rejoinder by Shawn Steel

The Mephistophelian Willie Brown

By John Kurzweil

— Also —

Free Willie

In Five Acts and an Epilogue

The Long-Awaited Winning Entries in the *CPR*-Criticus Willie Brown Literary Competition

And introducing

The Doris Watch

(for as long as it lasts)

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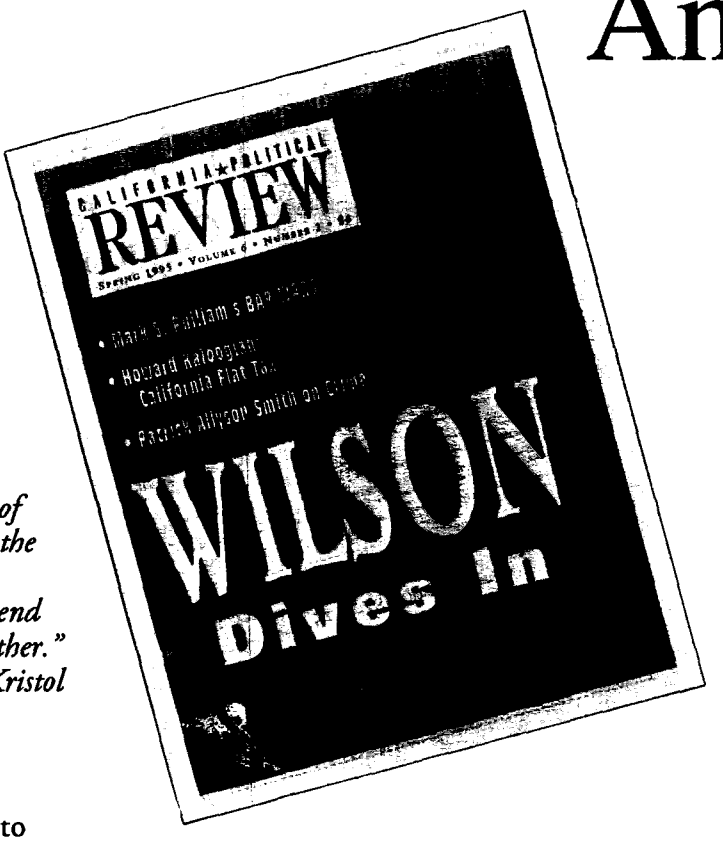

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— Irving Kristol

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FEATURES

Time for Bureaucratic Liposuction By Tom McClintock 9

Liberals say selfish taxpayers are starving state government. Perhaps they haven't noticed: since 1966 Sacramento has increased spending more than 60 percent beyond the combined growth of population and inflation.

Routing the Knaves By Leon McKinney 15

Orange County votes down Measure R.

Pure No Fault and Wage and Price Controls By Shawn Steel 19

A rejoinder to Michael Johnson and Mark S. Pulliam on tort reform.

The Mephistophelian Willie Brown By John Kurzweil 21

In a democracy, losing every battle is supposed to mean going into the loyal opposition, but not for the majestic Willie Brown.

ARTS & CULTURE

Criticus By G.B. Tennyson.....24

Free Willie — in five Acts and an epilogue — the long-awaited winning entries in the *CPR*-Criticus Willie Brown Literary Competition.

Books In Review.....27

In Defense of Elitism William Henry protests the Vital Lie: the notion that 'everyone is pretty much the same (and, worse, should be).'

Reviewed by David F. Faustman

DEPARTMENTS

Correspondence.....2

Sacramento Spectator.....3
A.P.C.

The Law.....4
By Mark S. Pulliam

The Doris Watch.....5

The Working Press.....7
By Tim W. Ferguson

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A PUBLICATION OF THE
CALIFORNIA PUBLIC POLICY FOUNDATION

JOHN KURZWEIL
EDITOR & PUBLISHER

JAN EDWARDS
MANAGING EDITOR

WILLIAM R. ALLEN • *ECONOMICS CORRESPONDENT*
TIM W. FERGUSON • *THE WORKING PRESS*
MARK S. PULLIAM • *LEGAL ISSUES CORRESPONDENT*
LEON S. MCKINNEY • *CPR ADMINISTRATOR, TOWN HALL*

CONTRIBUTING EDITORS
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LEON S. MCKINNEY

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California Political Review is published quarterly by the California Public Policy Foundation. Send address changes, manuscripts, and Correspondence to: Editor, *California Political Review*, Post Office Box 931, Camarillo, CA 93011-0931. Unsolicited manuscripts should be accompanied by a stamped, self-addressed envelope. Signed articles express their authors' opinions and do not necessarily reflect the views of the California Public Policy Foundation which does not endorse or oppose candidates or intervene in any candidate election campaign. Unsigned editorials express the editors' opinions and not necessarily the views of the California Public Policy Foundation. Rates: $30 yearly (four issues of *California Political Review* plus four issues of *CPR Update*); students: $15 yearly. Outside U.S. add $4 per year surface, $20 per year airmail. *California Political Review* is copyright © 1995 by the California Public Policy Foundation.

California Political Review is published quarterly for $30 per year by the California Public Policy Foundation, 15456 Ventura Blvd., Suite 300, Sherman Oaks, CA 91403. Second-Class Postage Paid at Van Nuys, CA. POSTMASTER: Send address changes to *California Political Review*, P.O. Box 931 Camarillo, CA 93011-0931.

CORRESPONDENCE

PROUD OF ONE'S ENEMIES

It's said that one is known by the enemies one makes, so it's not surprising that *California Policy Review* and its sister publication, *Update,* regularly excoriate me, just as it's not surprising that Willie Brown, Mervin Dymally, and Tom Hayden have denounced me for my writings. It goes with the territory of being a political commentator, although the wide range of critics indicates that I'm more interested in reporting and commenting on the antics of politicians than in pursuing any ideological agenda.

Nevertheless, I was taken aback by the recent item ("Sacramento Spectator," *CPR Update,* Spring) about my divorce since your anonymous writer didn't bother to even superficially check the facts of the case as he breathlessly, perhaps hopefully, wrote that it was a "messy" one.

I would invite you or anyone else to read the case file to his heart's content. It is Sacramento Superior Court case 94 FL 16106. And since you are unlikely to do so (and thereby allow the facts to undermine your supposition) I would inform you that after 32 years of marriage that produced two children who are now productive adults, the parties went their separate ways. A final settlement has been signed by both parties that fully complies with the law and did not require adjudication. And I am now happily married to Lt. Col. Doris Winter (USAF Ret.), an associate member of the Placer County Republican Central Committee and a member of the state Republican Party.

Having titillated your readers with the original item, I invite you to publish this letter, check the file yourself, or both. And if you fail to do so, the implication about your integrity is obvious.

Daniel R. Walters
Sacramento

A.P.C. responds:

Tut, tut, Dan. Take a "big gulp" dose of prozac and calm down. Does the phrase "you can dish it out but you can't take it" ring a bell, Dan? Certainly appears that it should.

Unlike you, I do not engage in character assassination as a means to settle political scores. I report what I hear around Sacramento. Your divorce and the possible revelations of you accepting large honoraria for speaking to groups you regularly cover in your column were hot topics on the political grave vine. It is my job to report hot topics on the political grape vine, though I will admit that the opportunity to put a pin in your overblown balloon of bombast and bile did not cause me to shed a tear.

As for your children being successful and you now being happily remarried, that is fine with this correspondent. Again unlike you Dan, I do not wish personal misfortune upon those I disagree with politically. I do not take smug delight in seeing decent people's lives ruined. The past 10 years or so of your column indicates exactly the opposite is true of you. If your children are truly productive, if they are adults without an all encompassing malice in their hearts, if they do not seek to punish people for not "brown nosing" sufficiently, then it is clear they take after their mother.

Editor's postscript:

Mr. Walters' gratuitous slam about integrity in publishing seems to indicate he has CPR confused with the Sacramento Bee, which for years refused to publish rejoinders to Walters' groundless imputations of criminal behavior by Pat Nolan. It is not our purpose to mislead, hence we're glad to publish his letter. Still, it is a little hard to take seriously indignant protestations about accuracy from someone who devoted years to helping send an innocent man to prison and who apparently believes that, if you can just get everybody saying you're wrong, you've somehow proven not only that you are right but noble. You don't find the truth that easily, and you don't achieve virtue by refusing to form a coherent view of the world, or by snickering at those who try to do so.

But go ahead, Dan, write again anytime. If it's reasonably relevant to something we've run, your letter will appear.

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SACRAMENTO SPECTATOR

Some weeks ago, when Willie Brown still occupied the Speaker's chair (he still runs the Assembly with an iron hand, but more about that in a moment) and Paul Horcher was still clinging to his Assembly seat, the Wall Street Journal described the State Assembly as resembling "Fredonia," the mythical kingdom ruled by the Marx brothers in Duck Soup.

Your Spectator wonders if the Journal knew how prescient they were, as things have gone from bad to worse in the Assembly. While there were always plenty of Grouchos, Harpos, Chicos, and Zeppos, at first there was no Margaret Dumont. For my cinematically-deprived readers, Dumont was the elderly dowager kept in a constant dither by Groucho et. al. She rarely had a clue as to what was going on and was easily manipulated since she had almost no original thoughts or ideas of her own.

Enter Doris Allen, the perfect Margaret Dumont. Allen is the perfect tool of Willie and the boys. Easily flattered, even more easily confused, Doris continues the Horcher tradition, helping Willie Brown destroy the Assembly Republican Caucus. Where Paul Horcher was venal, Doris is just dense. Early in her career she earned the moniker "Dumb Doris." Being apt, it stuck. And like Horcher, Doris is helping the Brown & Company wrecking crew in order to play "pay back" for her petty hurt feelings accumulated over a too-long political career. Under the guidance of Willie Brown, former CTA political operative Alice Huffman, and most of Brown's old Speaker's office staff, Allen is systematically attempting to destroy the GOP infrastructure in both the policy and political areas. Determined to "get even" with anyone and everyone who ever looked at her crosswise, Doris allows Willie and the Democrats absolute freedom. What GOP help she has is exceptionally weak — both in policy and personal ethics. Republicans working for her either could not find work anywhere else or used to work for Democrats.

In the meantime, the real Republicans, led by Jim Brulte, have hung together. Brulte, Curt Pringle, Jim Rogan, et. al., have advanced both GOP policy initiatives and a political guerrilla war. That Allen, given the Speaker's many carrots and sticks at her, or, rather, Willie's disposal, can count on only 3 GOP votes (the bizarre Bernie Richter, the confused Brian Setencich, and the pathetic, hand-wringing, whining Jan Goldsmith) is a testament to the good souls that dominate the GOP Caucus.

So what for the future? As much fun as this Duck Soup revival is for us professional Spectating types, this particular show is going to have a short run. Margaret Dumont's role will be written out of the script — by the angry Republican voters of Doris Allen's Assembly District. Her recall is well on its way to success. By the time you read this, nearly all the signatures required to place it on the ballot will have been gathered, and two separate surveys show support for the recall to be in the 65 to 70 percent range. So Dumb Doris will follow Horrendous Horcher out of office.

The possibilities after that are intriguing, though not all positive. Whatever follows Allen's recall, it can't be worse than now. Allowing the Allen farce to continue until next year's elections would guarantee a loss of six to eight GOP Assembly seats. The fall promises better things. In the meantime, when considering Ms. Allen, please keep in mind a most appropriate quote from your Spectator's favorite state senator: "Doris Allen is too old, too dumb, and too ugly to be a prostitute ... but by God she is!"

— A.P.C.

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None Dare Call It Tort Reform

MARK S. PULLIAM

CALIFORNIA REPUBLICANS began this legislative term with high hopes of achieving meaningful civil justice reform in Sacramento. The governor — re-elected in a landslide — had put together a package of excellent proposals, the Republicans were seemingly in a position to wrest control of the Assembly from trial lawyer puppet Willie Brown, and the McDonald's coffee verdict and other outrages had finally brought our out-of-control legal system to the fore in the public's mind .... Well, we know how these high hopes were dashed, what with skullduggery by Willie Brown, betrayal by Paul Horcher and Doris Allen, and a *tour de force* demonstration of political hardball by the trial lawyers. Early in the term, civil justice reform was defeated in Sacramento, killed (except for the most tepid bills) in a straight party-line vote in the Assembly and Senate Judiciary Committees. We are at least one election cycle away from having the votes to enact comprehensive legislation addressing products liability, punitive damages, wrongful termination, and other reforms in California.

Under Goldsmith's bastardized version of 'loser pays,' businesses that lost in court would have to pay the other side's attorneys' fees in addition to the damages, but would get nothing if they won.

The picture is not entirely bleak. As part of the ongoing leadership struggle, freshman Brian Setencich (R-Fresno) was added to the Assembly Judiciary Committee, breaking the 7-7 deadlock to create an 8-7 Republican edge. What a difference one vote can make. No longer will the Democrats be able to prevent civil justice reform from reaching the Assembly floor. On July 12, the newly-constituted Assembly Judiciary Committee approved (by a party-line vote) amendments to S.B. 31 (Leslie) and S.B. 994 (Haynes) that were vehemently opposed by the "Consumer Attorneys of California" (*aka* the California Trial Lawyers Association). S.B. 994 was amended to limit abusive wrongful termination and shareholder derivative suits. The amendments to S.B. 31 would significantly control the award of punitive damages and provide negligence immunity to emergency 911 operators. Punitive damages would be awarded by the trial judge rather than a jury, would be capped at three times compensatory damages, and would be based on specific guidelines and criteria, all tremendous improvements over existing law.

ALTHOUGH THE fate of these bills is uncertain in the Senate (where trial lawyer crony Bill Lockyer presides), they represent the most significant civil justice reform bills opposed by the CTLA to reach the floor of either legislative chamber since the passage of MICRA in 1975. Having gotten out of committee, these bills will force all legislators to go on record in a floor vote as either supporting or opposing sensible civil justice reform. With 41 votes needed for passage, and with Republicans in the Assembly currently holding a slight 40-39 advantage, Republicans need to pick up at least one Democrat vote. Any defectors the CTLA is able to coax from Republican ranks will truly deserve the label "traitor."

But as disappointing as the well-publicized setbacks in Sacramento have been, they don't tell the whole

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Mark S. Pulliam, California Political Review's *legal issues correspondent, is an attorney in private practice in San Diego.*

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THE DORIS WATCH

AFFIRMATIVELY MISSING IN ACTION

The big UC Regents vote on abolishing affirmative action came and went recently — without the Speaker of the Assembly (who is a Board member) in attendance. Doris Allen was in Colorado visiting her mother who apparently had had a stroke. OK, but her mother reportedly was released from the hospital two days before the Regents voted. Why no Doris?

Is it possible the Speaker wanted to duck? Why would a "good Republican" like Doris — a "conservative Republican," as Ted Costa of People's Advocate tells us — miss voting to end racial preferences? Paraphrasing the Church Lady: Could it be ... Willie?

Speaker Veritas Willie L. Brown is a vociferous advocate of racial preferences, even warning Bill Clinton not to step foot in California if he abandons affirmative action. You don't have to be Oliver Stone to connect the dots here. Doris wanted to avoid sleeping in a bed of nails she herself made: cross Willie by voting to abolish racial preferences or vote to keep them, making recall a certainty. If you doubt this, read the "Open Letter to the University of California Board of Regents" from the Assembly Republican Caucus. It urges the Regents to "dismantle the discredited system of racial preferences and restore individual academic merit as the guiding principle in ... admissions policies," and is signed by every Assembly Republican except — that's right, Doris Allen. One thing more: just before ducking the vote, er, visiting her mother, Doris enjoyed a long, catered luncheon with members of the Black and Latino Caucuses.

CHAOS THEORY

If there's a reason in this universe to keep Doris Allen as Speaker, it isn't for the way she runs the Assembly — which seems to be in accordance with the Chaos Theory of Management. A glimpse of her musical chairs style via these July 11 letters from Doris to E. Dotson Wilson, chief clerk of the Assembly:

"Dear Dotson: ... I have appointed Assemblymember Howard Kaloogian to the Assembly Human Services Committee ... for the hearing on Wednesday, July 12, 1995 only."

"Dear Dotson: ... I have appointed Assemblymember James Brulte to the [PERS] Committee ... for the hearing on Wednesday, July 12, 1995 only."

"Dear Dotson: ... I have appointed Assemblymember Curt Pringle to the [PERS] Committee ... for the hearing on Wednesday, July 12, 1995 only." Doris made these one-day appointments the day before the hearings insuring that Republicans would be as ill-prepared as possible. What a good Republican..

WHAT'S IN A NAME?

On July 12, our "good Republican" Speaker shot out a press release to newspapers in Assemblyman Brooks Firestone's district. "Assembly Speaker Doris Allen," it read, "today called upon Assemblyman Bruce Firestone to explain why he could not take a lead role in the effort to fashion workable environmental legislation." First, his name is Brooks, not Bruce. Second, perhaps Doris should explain: she appointed Firestone to the Assembly Natural Resources Committee expressly to force him to vote on Pete Wilson's regulatory reform bill, a vote that will either anger many of his constituents or damage the governor. Doris should explain that this is payback for his endorsing the recall. Environmental reform and the governor be damned.

– T.D.W.

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story; behind the scenes, it gets worse. The plaintiffs' bar, not satisfied merely to play defense, is embarked on a little-noticed, Machiavellian scheme to pass pro-trial lawyer legislation disguised to look like civil justice reform.

ONE CYNICAL proposal (authored by purported moderate Dede Alpert) would have made punitive damages payable to the public fisc to finance education (a nod to the CTA) rather than to the individual litigant. Sounds sensible until you notice that Assembly Bill 492 was cleverly written so that contingency fee trial lawyers would still get their 30-40 percent share of the punitive damage verdict. The plaintiff would get nothing, but the lawyer would still be enriched! Instead of discouraging the award of punitive damages, Alpert's deceptive proposal would encourage them, by retaining the existing financial incentive for the contingency fee lawyer and by making the award more attractive to a jury (after all, the money will fund education, perhaps even reducing our taxes, so let's really send a message!). Yet this bill was widely perceived, and depicted in the media, as a "reform" proposal. "Reforms" like this we don't need. Fortunately, this Trojan Horse was killed in Committee as a result of lobbying by the Association for California Tort Reform.

Even more alarming (because it was sponsored by a Republican who should know better) is a bill dealing with "loser pays" authored by Doris Allen-ally Jan Goldsmith. Goldsmith's bill, A.B. 54, started out as a laudable idea originally recommended by Peter Ueberroth's Council on California Competitiveness: The losing party in a lawsuit would have to pay a portion of the winner's attorneys' fees if, prior to trial, the prevailing party made a settlement offer and the loser failed to obtain a more favorable result. Goldsmith's bill, as introduced in December 1994, would have discouraged unnecessary litigation and reduced the powerful settlement leverage wielded by plaintiffs' lawyers in two ways: (1) by penalizing unmeritorious claims (and defenses) and providing for recovery by the prevailing party of its attorneys' fees, and (2) by encouraging realistic settlement discussions. Assembly Bill 54 began, in other words, as a good bill. Then politics took over. The bill now masquerading as A.B. 54 bears no relationship to the version initially introduced, save that both purport to address the subject of "loser pays." The version voted out of the Assembly Judiciary Committee and passed by the Assembly has either been inadvertently watered down to such an extent that it has lost its original purpose, or it has been hijacked by the trial lawyers. Only its author knows for sure. Assembly Bill 54, as amended, substantially limits the instances in which the loser will have to pay the prevailing party's attorneys' fees. There are now numerous loopholes, which overwhelmingly favor plaintiffs over defendants. Under the current version of Goldsmith's bill, a losing party will not have to pay if (among other exceptions):

1. The party can't afford it; or
2. The party "would suffer an unreasonable financial hardship if ordered to pay fees"; or
3. The case includes any claim brought as a class action; or
4. The case involves personal injury; or
5. The case involves wrongful death; or
6. The case involves injunctive relief .... You get the drift.

The net effect of these exceptions is that individuals suing corporations, insurance companies, landlords, physicians, hospitals, etc., will virtually always recover their attorneys' fees if they prevail, but will seldom (if ever) be liable for their opponents' attorneys' fees if they lose — one-sided "loser pays." Under Goldsmith's bastardized version of "loser pays," businesses that lost in court would have to pay the other side's attorneys' fees in addition to the (generally inflated) damages, but would get nothing if they won. This is no reform at all. This is an abomination that would make a laughably dysfunctional civil justice system even worse.

MISCELLANY: ON May 2, San Francisco Superior Court Judge John E. Munter awarded $1.8 million in costs and attorneys' fees to Rena Weeks, the legal secretary who endured 30 days of sexual harassment by a boorish boss, in addition to the $7.1 million in punitive damages that the jury had previously awarded (reduced by Judge Munter to a mere $3.725 million). Ms. Weeks' actual damages were $50,000. Judge Munter awarded Ms. Weeks attorneys' fees 1.7 times in excess of the actual hours devoted to the case (a "bonus" of $650,000) as a reward for bringing a case that seven lawyers had turned down before someone finally took it on. As Judge Munter put it in his decision, "[w]ithout enhancement of their normal, non-contigent hourly rate, attorneys would have insufficient incentive to take cases such as plaintiff's." In other words, Judge Munter believes it is desirable to encourage litigants to pursue lawsuits even if they have experienced no substantial damages, purely in the hope of receiving a windfall award of punitive damages! Judge Munter awarded the lawyers more

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than $160,000 for their work just on the fee application! And we wonder why California faces a litigation crisis? Judge Munter was appointed to the bench by Pete Wilson in January 1994. With appointments like these, who needs Jerry Brown?

FINALLY, SOME judicial decisions are so bizarre that they defy belief, yet they remind us of the condition we are in. In June, a federal magistrate in Los Angeles ordered Governor Pete Wilson and Attorney General Dan Lungren to appear for depositions in the Venice offices of one of the lawyers challenging the constitutionality of Proposition 187. The lawyer requesting their depositions, notorious police critic Steve Yagman, was threatened with suspension from federal court recently for falsely accusing a conservative law-and-order federal judge of being a drunk and an anti-Semite in order to force the judge — who Yagman perceived to be unsympathetic to his cases — to disqualify himself from the police brutality cases in which Yagman specializes. Yagman's basis for deposing California's governor and top law enforcement official? Wilson and Lungren supported Proposition 187 prior to the election. To the civil rights establishment, this is an unpardonable offense. Yagman wants to ask them why they think it is constitutional, even though neither of them wrote it, other state officials are more knowledgeable about facts such as the cost of educating illegal aliens, and the issue of constitutionality is a legal rather than a factual matter in any event. It is obvious that the requested depositions are part of a ongoing campaign of harassment by the alphabet soup of 187 opponents — the ACLU, MALDEF, LULAC, etc. The courts are willing accomplices to this harassment. Federal judges enjoined the law before it ever took effect, have forbidden the state of California to issue implementing regulations, and now are bossing around the state's chief constitutional officers as if they were petty minions of the federal government. The lawsuits against Proposition 187 are "Exhibit A" in the case for a revitalized interpretation of the 10th Amendment. CPR

THE WORKING PRESS

New ~~Man~~, er, Face at the *Times*

BY TIM W. FERGUSON

CEREAL JOKES were so thick around the *LA Times* after Mark Willes, vice chairman of General Mills, was named to the top management job at Times Mirror Corp. that few got around to speculating about the politics. Sure, surprise choice Willes is a balance-sheet surgeon and that usually means cutting (though he also oversaw the growth of the Minneapolis-based company's restaurant properties) so life may soon get a little leaner at the Gray Porpoise. But the more interesting question for California is the new boss's politics.

From his days in the Federal Reserve System, Willes is a friend of Jerry Jordan, the libertarian former chief economist of First Interstate Bank who's now president of the regional Fed bank in Cleveland. And Willes has been known to have his own "rational expectations" line of economic thought, which holds that markets can usually anticipate and trump government policy. Times Mirror's tradition in recent decades is for the corporate side to keep fingerprints off the editorial departments, and Willes is likely to be especially cautious, given the built-in apprehensiveness toward him as an outsider. But ultimately if the *Times's* franchise among Southern California suburbanites is going to be secured, somebody is probably going to have to do something about the incessant PC spin on the news — in fact, the gradual disappearance of the news, in favor of sermons on diversity. (Persons of color/single mothers/gays/handicapped/illegal immigrants achieving this or being denied that.)

THE CONSERVATIVE side of the owning Chandler family is said to be agitating for a change in direction. One assumes that if management were of a mind to do that, it would attempt to do so bloodlessly, starting with a nice new life for editor Shelby Coffey and following from there. It recently fiddled with the leadership of the editorial pages, but most readers on the

Tim W. Ferguson is California Political Review's *press critic.*

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right don't really care about the "Editorials of The Times" that are labeled as such — it's the unlabeled twaddle in the rest of the paper that gets soooooooo old. Any replacement for Coffey who tried to turn the ship around might have a mutiny, so entrenched are the newsroom Thought Police by now. Then we would see what Mr. Willes is made of.

ONE OF the best places to take the temperature of the *Times* is the monthly gossip column on the paper in *Buzz* magazine. The psuedonymous Margo McGee has no particular political angle, but savagely eyes hypocrisy and cant. Recently she (he?) let Robert Scheer have it between the eyes. A longstanding *Times* house leftist (he was the first one "out") and husband of Number Three ranking editor Narda Zacchino, Scheer took one of the generous buyouts awhile back but he still haunts the place. As a "contributing editor" he serves up boilerplate op-eds and interviews sympathetic personalities. (In the old days, his combative Q&As with non-libs were interesting to read; maybe no one on the right will talk to him anymore.) We'll have to keep up with Margo's dope to see whether finance guy Willes manages to zero out the Scheer liability.

ONE LOSS the *Times* will regret is Daniel Weintraub from the Sacramento bureau. He escaped to the *Orange County Register* from the clutches of the "gal editors" (as Margo calls 'em) in L.A. Remembered for his tough coverage of Pete Wilson's budget deals and assorted twists and turns, Weintraub makes the *Register* a first or second read on machinations in the statehouse. The *Times,* meanwhile, with extensive coverage of substantive matters such as the sexist remarks toward Doris Allen from the Party caucus she abandoned, is now an optional stop for Capitol insiders.

JOHN JACOBS of the *Sacramento Bee* got one of the early sit-downs with Queen-for-a-Day Doris, during which she slung some good dirt at Ross Johnson and Barbara Alby. But in the course of this long up-close-and-personal, where was discussion of the Allen pension gambit and her out-of-state getaway ranch?

THE FACT is that nobody was providing much behind-the-scenes color on the death struggle in the Assembly, the kind of stuff you can rely on the newsmagazines to crank out from Washington. It's a weakness of every Sunday paper in the state that Californians don't get a good peak at how their elected officials really do business. Even a daily dots and dashes collection such as Matier & Ross do for San Francisco in the *Chronicle* would be appreciated. Too much of the analysis and perspective out of Sacramento reads like those scripted rehashes by "in the know" journalists on Friday night public TV.

SPEAKING OF the *Chronicle,* the owning family gave the boot to lefty grande dame Nan McEvoy and a court upheld the ouster, but it isn't yet clear whether this will rescue the readable San Francisco rag from its leftward drift. No one was quick to replace her as publisher.

MEANWHILE, BAD news at the *Los Angeles Daily News,* with the state's seventh biggest (202,000) daily circulation. The purge of conservatives from the opinion staff was nearly complete with the departure of editorial page editor Tom Gray for the friendly confines of *Investor's Business Daily.* Mark Lacter, formerly of the Sacto press corps, replaced Gray as the soulless newsroom hierarchy smothered the once-feisty editorial domain.

The *Daily News* was never completely reliable — it would search for respectable Democrats to endorse over "far right" Republicans and backed some real stinkers for local office — but it was clearly *not* the *Los Angeles Times.* Owner Jack Kent Cooke proclaimed himself so happy with the new management team that he would hang on to the struggling daily. Where the abandoned souls of the San Fernando Valley (the *News's* home base) will go for an antidote to metro-area PC was not Capt. Cooke's concern. But then, he lives in Washington and doesn't have to read the *Times.*

THE *TIMES* unsurprisingly led the charge for Measure R, the Orange County sales-tax increase rejected by 61 percent of the voters. What is more interesting to note is that at the *Orange County Register,* which editorially opposed the tax, both of the local news-section columnists, the business columnist, and even the lead *sportswriter* endorsed the increase. In a recent issue of the *New Republic, Register* editor Tonnie Katz (who is responsible for all of the pro-tax pundits, but not the editorial pages) said affirmative-action hiring was key to having a newspaper reflect its readership. Is someone at the *Register* wondering how its news department might better connect with the *beliefs* of the customers? CPR

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Time for Bureaucratic Liposuction

Tom McClintock

ONE OF the recurring themes from liberal legislators and editorial writers in this summer's budget debate is that Californians' selfishness and parsimony have starved government of the resources it needs to provide even basic public services.

There's no argument that California's government now fails even its most fundamental responsibilities. Reading scores of California students now rank dead last in the nation. There has been no significant highway construction in 20 years. The state's financial ability to jail dangerous criminals is in serious question.

The liberals pine for the days of Governor Pat Brown and Speaker Jesse Unruh — California's golden age — when an amply funded government provided a cornucopia of services. Those were the days when California built roads faster than Detroit could build cars. The state water project was under construction, providing for the water needs of a growing and thirsty population. The university system was undergoing historic expansion — with a college education guaranteed free to every Californian who wanted one. The state's public schools were the envy of the nation. It was inspiring what a liberally-funded state govern-

Former Assemblyman Tom McClintock, the Republican nominee for California Controller in 1994, is currently director of Economic and Regulatory Affairs for the Claremont Institute, 1127 11th Street, Ste. 206, Sacramento, CA 95814; e-mail 76072.204@compuserve.com

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ment could do. But it might surprise the liberals to learn that California's golden age of liberal government was financed with less than two-thirds of the funds that their "starving" bureaucratic state now consumes. And that's after adjusting for both inflation and population growth.

In FY 1965-66, the last full year of the Brown administration, the state spent $1,070 per person (in 1995 inflation-adjusted dollars). Today, it spends $1,717 *per capita*, an absolute increase of more than 60 percent beyond the combined growth of population and inflation.

Neither Proposition 13, which shifted some local financing to Sacramento, nor the *Serrano* decision, which required the state to equalize education expenditures, excuse or explain such a run-up. Total *per capita* inflation-adjusted spending is 31 percent more than 1972-73, the first year after *Serrano*. It is almost exactly the same as it was in 1978-79, the first full year after Proposition 13 (adjusting for the 1992 and 1993 property tax shifts).

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As the population nearly doubled from 18 to 33 million, simple economies of scale should have reduced significantly the *per capita* cost of providing a host of state services. Ironically, *per capita* costs have increased while the quality of those basic services has dramatically declined.

Five years ago, a handful of legislators began warning that California's budget problems were rooted in expenditures, not in revenues. They warned that without serious budgetary and bureaucratic reform, California would sink into an era of chronic budget deficits, declining services, and prolonged economic downturn. They were ridiculed, their warnings were ignored, and today California is a fiscal basket case, her once vaunted governmental services a shambles and her economy reduced to what economist Arthur Laffer describes as a "perpetual West Virginia."

Yet California leaders of both parties continue to conduct business as if the state's problems resulted from a lack of money. Indeed, while California budget-writers decided to abandon a 15 percent cut in the state's record-high income tax, neighboring Arizona was moving toward a *100 percent* cut in its income tax. (Competing Nevada has no income tax and Oregon no sales tax. California has among the highest rates in both categories.)

How can a state with one of the highest marginal tax rates in the country, a state spending 60 percent more per person after inflation than it did in 1966, be so utterly unable to provide basic services to its people? The answer should be obvious to anyone with a pocket calculator and a little common sense:

(1) The cost of the University of California in this year's budget is more than $40,000 per student, not including extra-curricular expenditures. Just three years ago, it was less than $36,000.

(2) The average cost of locking up a single prisoner in the state's prisons is $24,000. Three years ago, it was $21,000. Since 1980, prison costs have grown at twice the rate of prison population. An average prison guard (job requirement: high school diploma and six weeks of training) is paid more than $53,000 in wages and benefits — 56 percent more than the national average. Wages of $100,000 are not uncommon once overtime is included.

(3) California taxpayers pay a flagman on a state contracted road job $25.12 per hour in wages and benefits in most parts of the state to hold a stop-and-go sign. This is the lowest pay rate for unskilled labor under the state's prevailing wage laws and, with a few exceptions, must also be paid on all local and county construction projects as well, for everything from building elementary schools to county hospitals to flood control channels.

(4) Next year, taxpayers will back every classroom of 30 students in this state with nearly $168,000 of public resources, or $5,600 per pupil. According to a recent Rand Corporation study, half this money never reaches the classroom.

The average state employee (5) will receive $43,231 in wages alone next year, in addition to lavish benefits packages. This is approximately 40 percent more than private sector employees. Ninety-nine

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percent of state employees (not already at the top of their pay scale) received an 18 percent increase in pay during the last two years — 10 percent step increases and eight percent across-the-board raises. The across-the-board salary increases alone cost taxpayers nearly one billion dollars in additional annual taxes, or about $125 per family.

(6) Administrative overhead has also continued to expand exponentially in many bureaucracies. The Franchise Tax Board and Department of Corporations are each increasing their budgets 25 percent over two years, the Coastal Conservancy, 44 percent; the Mobile Source Program of the Air Resources Board, 47 percent; the Managed Risk Medical Insurance Board, 61 percent. Administrative overhead at the Department of Social Services will grow 80 percent; it will triple at the Department of Health Services.

TO FINANCE this spending, in 1991 Californians suffered the largest tax increase ever imposed by a state government, an average of $1,100 for every family of four in California. California tax rates now rank among the highest in the nation in every category except property taxes. But that hasn't been enough to finance the bureaucracy's appetite for spending.

The lack of fiscal discipline creates a burgeoning short-term debt load that is now staggering. In 1993, Standard and Poor's warned that California was carrying a proportionately larger short-term debt than New York City in the 1970s. That situation has worsened: last year's budget required $7 billion in short term notes, including $4 billion extended beyond the end of the fiscal year. The cost to California taxpayers for the two-year swing loan — the largest ever sought by a state — was nearly a half-billion dollars in interest and fees.

In real numbers, that means an average family of four — which painstakingly balanced its budget through record tax increases and an imploding economy — was forced to pay an additional $60 in finance charges and interest because Sacramento's politicians were unable to balance their budget in five consecutive years.

Long-term debt is also rapidly getting out of control, despite recent efforts by the voters to contain the issuance of general obligation bonds. Until a few years ago, California had always maintained below-average bonded indebtedness. Not anymore. The state's debt service is now 5.2 percent of the general fund, ***five times the percentage paid just 10 years ago.***

This shouldn't surprise us. Ever since the first civilizations formed in the Mesopotamian valley, bureaucracies which were established for simple and benign purposes have eventually lost sight of their objectives and gradually degenerated into self-centered, self-aggrandizing, and self-indulgent institutions. When a society reaches this terminal stage of bureaucratic growth, the economy begins to buckle while the bureaucracies gradually become obstacles to the very purposes which they were created to serve. Any parent who has attempted to approach a public school administrator in the last decade knows that well.

Last year, in *California Political Review,* I outlined the three steps needed to restore the constitutional containment mechanisms which once restrained the profligate tendencies of the Legislature.

First, California needs a genuine balanced budget requirement in its constitution, mandating that the budget must be balanced upon its adoption — and not merely upon its introduction.

Second, the tattered remains of Article XVI, which requires voter approval of all debt more than $300,000, must be fully restored to its original intent and the use of phony revenue bonds and short-term instruments to evade this limit must be prohibited.

Third, the Gann Spending Limit should be restored. These measures would return California's budget process to the same conditions under which it operated as recently as 1989, when the state enjoyed a triple-A credit rating, an ample budget reserve, a relatively low debt rate, and no major new taxes.

But these constitutional limits, as vital as they are, address only the issue of fiscal irresponsibility by today's decision-makers. They do not solve the accompanying problem of California finance: a paucity of service delivered at a premium of cost by today's bureaucrats.

If a golden age of California government is to return, three dramatic alterations must be made in the bureaucracy itself. First, brisk, healthy competition must be restored for the provision of governmental goods and services. Second, superfluous or superannuated bureaucracies must be eliminated. Third, the barnacle-encrusted civil service system must be placed under the discipline of a free market.

Restoring Competition

BUREAUCRACY IS inefficient because bureaucratic managers respond to an entirely different set of incentives than private sector managers. In the private sector, the human instinct to improve one's prosperity and expand one's influence is disciplined by the marketplace. The path to riches and power lies in providing a better good or service at a lower cost than the

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competitor next door who is attempting to do the same.

BUREAUCRACY KNOWS no such discipline. Guaranteed the same number of customers regardless of its productivity, efficiency, courtesy or cost, bureaucracies' incentives to improve or economize are severely reduced. The incentives to increase the size and power of an agency are contained only by the outer limits of an ever-expanding budget. Ultimately, it is the lack of competition that reduces the efficiencies of bureaucracies at all levels. No human enterprise reasonably could be expected to economize and excel when there are few rewards for efficiency and few penalties for sloth.

Over the past 20 years, insurmountable obstacles have been erected deliberately to prevent California's government from doing what every family and business in the state does routinely: shop around for the best service at the lowest price.

The constitution grants California's Mandarin class of bureaucrats a virtual monopoly on providing governmental services. Only a few limited opportunities exist to shop for more efficient private vendors, and even these exceptions are blocked by laws enacted at the behest of public employee unions.

For example, state law generally allows contracting out when a private vendor can prove that his gross cost of providing the service (including his entire overhead, taxes and fees, regulatory costs, and rent and utility costs) is less than the bureaucracy's net cost of providing the service, without any of these considerations. This makes it virtually impossible for private firms to compete with the bureaucracies.

Further, labor rates paid by the contractor may not significantly undercut wages paid to state employees. Ironically, private firms must prove they can operate more cheaply than the state bureaucracies, while being forced to pay the same inflated wages. Indeed, because of prevailing wage regulations, the private firms are often required to pay even more than the bureaucracies on construction projects. Furthermore, private firms are forbidden from displacing state employee jobs when contracting with the state. Thus, many of the factors that so grossly inflate the cost of government projects are mandated upon firms seeking to fill the limited permissible opportunities for contracting.

A constitutional amendment repealing anti-competitive provisions in current law would prompt an explosion in privatizing, offering California's beleaguered taxpayers a veritable cornucopia of better services at lower costs (a concept universal in the market but unknown in the government). More importantly, it would introduce competitive incentives for bureaucrats to contain costs, to innovate, to improve efficiency — *even* to be nice to their customers.

A Bureaucracy Closure Commission

CALIFORNIA GOVERNMENT is riddled with overlapping bureaucracies and duplicative jurisdictions, both within the state government and among local, state, and federal governmental levels. In 1990, the Commission on California Competitiveness warned:

> Overlapping jurisdiction occurs not only at all levels of government — state, regional and local — but with single-purpose agencies as well. The result is a labyrinth of policies and regulations which, instead of fostering a thriving business community, confound and stymie small and large business alike. For example, California currently has over 50 state plans and 72 agencies in Los Angeles alone that have jurisdiction over and solely deal with environmental concerns.

The redundancies and duplications in California government are stupefying: the California Debt Advisory Commission duplicates services provided through the state Treasurer's office and private bond advisory services; the State Fire Marshall duplicates services provided by local fire departments; the Integrated Waste Management Board duplicates local government agencies; while the Commission on the Status of Women and the Commission on Aging du-

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plicate a myriad of voluntary advocacy groups, to mention just a few examples.

IN ADDITION, a wide range of state agencies simply provide no vital services at all. Indeed, when California's drought was officially declared at an end during the floods of 1993, instead of disbanding the superfluous "Drought Information Center," the bureaucracy was re-named the "Water Conservation Center" and will presumably continue on through the next Biblical flood. The experience of Assemblyman Ross Johnson is instructive: In 1985, Johnson undertook the presumably modest task of abolishing the California Board of Dry Cleaning and Fabric Care. The Board's original mission, to set uniform prices for dry cleaning, was ruled unconstitutional in 1953. But that didn't mean an end to its existence for nearly 35 more years. As Johnson explained in a 1986 letter to Governor George Deukmejian:

> Since the Little Hoover Commission first called for the abolition of the Board in 1967, there have been no less than five separate legislative attempts to abolish the Board, supported by governors of both political parties. The Board managed to fight off these attempts by playing on the concerns of the day. Eighteen years ago, the Board argued that it was needed to prevent dry cleaning stores from becoming fronts for organized crime. Today the Board is suddenly touting itself as a "watchdog" for toxic polluters.

During the floods of 1993, instead of disbanding the superfluous 'Drought Information Center,' the bureaucracy was re-named the 'Water Conservation Center.'

The obstacle to eliminating such agencies is that each has an established constituency, with a huge financial incentive to lobby for its expansion and perpetuation. Congress encountered this phenomenon when it attempted to close obsolete military bases. Similarly, any legislative attempt to phase out useless or overlapping bureaucracies (which individually consume only a tiny fraction of the overall budget) develops focused, highly motivated opposition.

Sadly, the political cost of fighting such opposition often vastly exceeds the political advantage of a balanced budget. Thus old bureaucracies never die and they rarely fade away. When Congress encountered the vitriolic resistance of even the most ardent fiscal conservatives to the closure of obsolete military bases in their own districts, it established the "Defense Base Closure and Realignment Commission," an independent panel charged with the responsibility of drafting a base closure list insulated from parochial congressional concerns.

Quite deliberately, its work product cannot be modified by the Congress or the president, but must be accepted or rejected in total. This mechanism insulates members of Congress from district pressures while proceeding with the overdue closure of obsolete facilities.

A similar charge given to a "Bureaucracy Closure Commission" could insulate legislators and the governor from concentrated pressures while taking the historic action of actually eliminating unnecessary state agencies.

Civil Service Reform

PICKING THROUGH the wreckage of California's bureaucracy, the temptation is to blame the bureaucrats. It is also wrong.

California state employees are potentially just as productive, efficient, innovative, and courteous as their private sector counterparts. The problem is that they are denied the incentives, inducements, and rewards for excellence provided in every field of human endeavor outside of government. The state's civil service system does not encourage the best and the brightest to rise to the top, and it provides a range of perverse financial and procedural incentives. These incentives destroy the impetus toward excellence that acts on private sector workers in a competitive environment.

The Legislative Analyst's Office has noted part of the problem in its annual "Perspectives and Issues" report on the state budget. It reflects upon the irony that the original purpose of the state's civil service system was to promote merit, competition, and efficiency in the government, the very antithesis of the qualities now inculcated by the modern bureaucracy.

Civil service examinations, originally intended to identify and promote proficiency, are now weighted with so many non-merit considerations (whether the applicant is a veteran or an incumbent state employee, for example), that non-favored applicants with much higher performance are arbitrarily excluded. The state's *de facto* racial and gender quotas further skew

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what was originally conceived as a system built exclusively on merit. Ninety-nine percent of eligible state employees received the maximum allowable "merit salary" increase last year, making a mockery of rewarding excellence over mediocrity. Complicated personnel procedures make disciplinary action against state employees prohibitively expensive. Incestuous promotions within agencies freeze out superior applicants and seniority protections reward longevity above all other considerations.

Even the Legislative Analyst's Office has made sweeping recommendations that have been received with deafening silence from the Legislature. The provisions in current law which capriciously confer unearned advantages in civil service examinations to veterans, state employees, and other privileged classes should be removed. The preference of seniority over merit should be discontinued. The Public Employment Relations Board should be abolished, disciplinary proceedings should be streamlined, and dismissal standards conformed to those already well practiced in the private sector. Outcome-based criteria for evaluating and rewarding job performance should be reintroduced.

The reason that common-sense reforms are ignored, even when made by such cautious institutions as the Legislative Analyst's Office, brings us to the second malfunction of the civil service: the unwarranted and disproportionate influence of public employee unions over the selection of the Legislature and the governor. Dr. Myron Lieberman, writing for the Claremont Institute, has outlined the myriad of political advantages exclusive to public employee unions: the collection of union dues and political contributions at public expense, the ability to influence directly the selection of management through the election process, and the ability to hold the public hostage in prolonged job actions.

IF THIS disproportionate influence is to be contained, California's long-standing prohibition against public employee strikes, which was struck down by the Rose Bird Supreme Court, must be restored. Public funds should not be used to assist the exaction of political contributions and union dues from state employees. And a state Hatch Act, modeled after the federal law which until recently maintained the political neutrality of federal bureaucrats, must be enacted to restrict the extent to which state public employees may make political demands on state elected officials.

Finally, California's collective bargaining laws must be changed to allow the flexibility to compensate employees in direct proportion to their expertise, performance, initiative, and effort. Where bureaucracies are opened to competition, freedom should be returned to managers to adjust compensation individually to retain proven employees or attract better qualified candidates for open positions. The relentless pressure of the marketplace would act as a powerful incentive to discourage unreasonably high — or unreasonably low — salaries. And in those job classifications where competition is impractical, compensation should be adjusted to the private sector average.

Conclusion

CALIFORNIA'S CRUMBLING infrastructure, her failed public schools, her ubiquitous and overbearing regulators, and her ailing economy are all signposts. They bear a message of misguided policies, a message that has gone unheeded by collapsing economies from ancient Rome to modern Russia. When any human institution is protected from competition, shielded from dispassionate evaluation, and accorded the power to dominate the political discourse of the public it serves, that institution becomes slothful, rapacious, and abusive.

Most of all, it becomes wasteful. California's institutions are reaching the terminal phase of bureaucratic evolution, when they begin to fail to provide the most basic of services even while they consume ever increasing portions of the society's productivity.

The brisk competition of a marketplace, the clear-headed elimination of unnecessary programs and agencies, and the restoration of merit as the guiding force of governmental administration are essential antidotes to California's chronic fiscal anemia.

A return to California's golden age requires a return to the fiscal discipline and the wholesome incentives that guided past generations. Ultimately, this is a question of political willpower. It will happen on the day that the political will of the voters to demand reform exceeds the political will of the bureaucracy to resist it. CPR

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Routing the Knaves

Orange County Votes Down Measure R

Leon McKinney

THE NEARLY hysterical reaction in the press and from many Orange County and Sacramento politicians to Measure R's resounding June defeat threatens to muddle the issue beyond all rational consideration. *Los Angeles Times* editorials have been nearly apoplectic, predicting doom and devastation, even audaciously castigating Orange County Republicans for being bad "conservatives" because they refuse to pick up the tab for their government's irresponsibility. Good conservatives, says the *Times,* pay their debts. Somehow, no matter what principles are under discussion, at the *Times* they always support tax increases.

A look at what really happened, and what it portends for the future: Last December Orange County filed for bankruptcy, after the collapse of former county Treasurer Robert Citron's risky investments. (Another example of 1980s Reaganesque "greed" and fiscal irresponsibility, liberals routinely charge, never minding that Citron was one of Orange County's few *Democrat* elected officials.) Back in the dreaded 1980s, Citron put together the Orange County Investment Pool (OCIP) starting with $7.4 billion, about half directly from the county treasury, the rest in the form of "investments" from scores of nearby local jurisdictions. Also, both Citron and many pool coinvestors, doing what no prudent individual would do with their own money, borrowed heavily to increase the value of OCIP's portfolio to $20.1 billion.

Tapping into the Reagan expansion, for quite a few years Citron's OCIP paid off handsomely, reaping hundreds of millions of dollars above the going market rate. The evidence indicates that the Pool's investors handled their windfall with all the usual irresponsibility of government: most OCIP-generated additional revenue went straight into the pocketbooks and wallets of public employees. Elected officials and administrators were thrilled. They could appease the unions without asking taxpayers to pony up for the pay increases and soaring hiring; poor fiscal policy, yes, but great politics. Public employee unions pushed and prodded the county and cities and school districts to jump aboard Citron's train. As the *Orange County Register's* Harold Johnson wrote in last March's *Reason* magazine, the government's '80s-style "extravagance" continued more or less right up to the collapse:

> Gary M. Galles, associate professor of economics at Pepperdine, charts an increase of more than 50 percent in county spending from 1978 through 1989, even with inflation and population growth factored in.
>
> Juicy examples of spendthriftery abound: unneeded real-estate acquisitions, the usual generous auto allowances and other pampering of top officials, fevered payroll growth (a 45 percent increase in the number of county employees over the past decade, to nearly 18,000 today). This past summer, when county supervisors approved the addition of more than 900 new positions — even as the recession-wracked local economy was undergoing another spasm of contraction — the *Orange County Register* protested editorially. In response, county Administrative Officer Ernie Schneider accused the paper's editorial staff of residing in a "mausoleum," so out of touch were we with the need for expanded "services."

PERHAPS MR. SCHNEIDER wished he could find a mausoleum of his own in which to hide out after last December. Orange County's original 1994-95 spending plan provided county employees an average salary of $37,411, annual overtime of $1,302, and benefits of $9,302, for a total average individual compensation

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Leon McKinney, CPR's administrator for Town Hall, writes commentary on Orange County politics for the Orange County Register *and other publications.*

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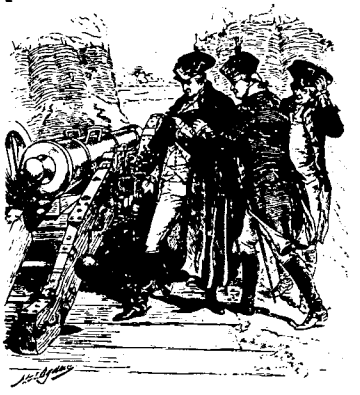
of $48,015. In contrast, Orange County manufacturing production workers have average yearly earnings of $27,454 according to February 1995 U.S. Department of Labor statistics.

The OCIP cornucopia was wounded, it turned out mortally, when interest rates (to which the whole scheme was closely tied) began rising in early 1994. This eventually caused the value of the pool's bonds and other holdings to fall. Because Citron had used that base value as collateral, its declining value undermined his relationship with lenders whose cash had financed much of OCIP's investing. Last November, probably sensing that OCIP was on the rocks and could soon go under, these lenders demanded that Citron restore the full value of the collateral. Since that was impossible, the crisis was on. On December 4, the county stepped in, demanding Citron's resignation. He quit and two days later, Orange County became the largest government entity ever to enter Chapter 9. When the bubble burst, OCIP's investors lost $1.7 billion and the search for scapegoats began.



THERE FOLLOWED a fascinating case study in government officials running from accountability. county politicians and bureaucrats, city council members and treasurers, school district boards and superintendents — virtually everyone who should have exercised some oversight — began singing the same song: (1) they were blameless for the losses incurred; (2) county, city, and school employees were also blameless; (3) anything less than 100 percent reimbursement to the cities and school districts would be unfair and immoral, even though no one's arm had been twisted to participate in OCIP and few, outside mausoleums, criticized any part of the binge while the going was good. In conclusion (4) the only responsible thing to do, especially concerning the school districts - for the children's sake - was for citizens to grit their teeth and vote themselves higher taxes and fees. Supervisor Marian Bergeson captured the mindset perfectly: taxpayers, she said, were in "denial," county residents had to realize the futility of lining up to pop the supervisors in the face. It was time to pull together to get ourselves out.

Willie Brown (who, in another context, told reporters recently that he "love[s] the business of making rules and regulations ... orchestrating statutes," in a phrase: pushing people around) jumped in with a blast at any plan for dealing with the bankruptcy that, as he put it, would lead to greater "unemployment" — meaning fewer public employees. Senate Democrat Leader Bill Lockyer appeared in Orange County in June decrying the people's "greed," calling them "shortsighted" and "self-destructive" and warning that "eventually those people [poor people from other areas] are going to come down and burn down your gated communities." Lockyer, whose legislator's yearly take, in pay and perks, is at least $100,000, did not explain how Orange Countians, with median personal income of less than $37,000, could afford gated communities.

Not everyone targeted the people as scapegoats for the government's mistakes. All six members of the county's congressional delegation: Chris Cox, Bob Dornan, Jay Kim, Ron Packard, Dana Rohrabacher, and Ed Royce, strongly opposed a tax increase and were joined by the county's state legislators. Assemblyman Curt Pringle and state Senators Ross Johnson, John Lewis, and Rob Hurtt churned out alternatives to the tax hike plan.

Bill Popejoy, a retired banker, offered to serve for one dollar in the new post of county chief executive officer, responsible for fighting through the bankruptcy and placing the county back on the road to fiscal health. Popejoy's immediate concern was a $975 million payment due the following June to holders of the county's own bonds. In addition, OCIP's collapse created a $170 million gap in the county's current budget and $60 million in the budget for fiscal 1995-96. Above all, there were the OCIP co-investors: the many cities and other jurisdictions that had placed billions in the pool, investments that, because of the bankruptcy, had lost 23 percent of their value.

Even for government, there are only three ways to make up lost money: spend less, bring in more, or do both. The question was, would the combination of solutions finally employed shift power and money toward government and away from the people or in the other direction? The left, predictably, wanted higher taxes and bitterly opposed any reining in of government. Indeed, if possible, they wanted no flattening in the upward growth trajectory government had achieved under Citron. But that would scarcely prove a blessing for most Orange Countians, already burdened with one of the highest sales tax rates in the state (7.75 percent, compared, for instance, to San Diego's 7 percent) and having little need of more of the kind of government that had precipitated the crisis in the first place.

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In the beginning, Popejoy appeared to side with the people. He rejected tax increase proposals out of hand and proposed a mild, 5.6 percent reduction in the county's 18,000-employee workforce (which, recall, had grown nearly 50 percent in 10 years). Of course, unions and liberal politicians reacted as if he had proposed dropping an A-bomb on the county, with angry rallies and marches, doomsday editorials, and photo-op denunciations of "greed" and the imminent collapse of civilization from Anaheim to San Clemente. But standing firm, for a time anyway, Popejoy came across as the kind of take-charge, can-do leader painfully lacking at the county board of supervisors. He fired county Administrative Officer Ernie Schneider and Assistant Treasurer Matt Raabe. County Counsel Terry Andrus resigned before he, too, was fired.

Politicians have never been known for scrupulous truthfulness, but this is getting ridiculous.

HOWEVER, FOLLOWING months of negotiations led by the county with the cities, school districts, government agencies, and other OCIP investors, Popejoy caved in to demands that every dime invested must be repaid. In late March, an agreement was reached: the county would pay 77 cents on the dollar immediately to all investors. The remaining 23 cents would be paid down the road. The county would try to persuade holders of the county's bond debts to agree to put off for a year receiving the $975 million due in June. Looming $170 million and $60 million budget deficit remained.

The agreement's failure to pass along any loss at all to OCIP's co-investors signaled taxpayers that once again they were targeted to foot the bill for irresponsible politicians and bureaucrats. Soon Popejoy jettisoned his initial firm opposition to increased taxes, ignoring accumulating evidence that the public strongly favored having government absorb the cost of dealing with the bankruptcy. In polls and interviews, citizens expressed a clear perception that government incompetency had caused the crisis and that, therefore, the government blob should receive no more taxpayer funds. In late February, for instance, the *Orange County Register* challenged its readers to balance the county budget by filling in a 137-box questionaire. On average, respondents eliminated 15.5 percent of the county work force - 2,518 jobs - and slashed overtime and other benefits to save $226 million. On February 15, the Reason Foundation released a comprehensive, no-new-taxes plan whose primary features were cutting the county work force 10 percent, cutting pay and benefits of remaining employees 10 percent, contracting out services, and sales of assets. Reason's plan would save almost $240 million annually and provide as much as $4 billion in one-time revenue.

The Rose Institute of State and Local Government at Claremont McKenna College showed that county employees' average pay and benefits increased by 11 percent the last three years, while county residents' *per capita* income fell 3 percent.

Despite all this, Bill Popejoy swung 180 degrees on the question of new taxes. Some suspicious individuals speculated his early tough talk had been mostly show, designed to provide himself and the supervisors later political cover of the "we tried, honest we did, but just couldn't find a way"-variety. Whatever Popejoy's genuine initial position, by March he was demanding a tax increase as unequivocally as before he had ruled one out. On March 28, guided by Popejoy's warnings that "only" a tax increase could stave off bankruptcy, the board of supervisors placed Measure R, a "temporary" (10 years' duration) half-cent sales tax increase (from 7.75 to 8.25 percent), on a special June 27 ballot.

The campaign set off with a bang. county employees staged rallies urging the passage of Measure R and proclaiming the inhumanity of even considering laying anyone off. (I remember wondering as I watched on television: Aren't they supposed to be in their offices, providing us those vital services?) Orange County Sheriff Brad Gates said cutting his staff three percent, from 2,510 to 2,435 as proposed by the county, would result in a collapse of public order. The public schools wailed that if Measure R failed, 10 percent of teachers would be laid off. The county again made plain its determination to pass along most of the cost of its mistakes to taxpayers when it released its fiscal 1995-96 budget plan in March. Spending went from $1.64 to $1.51 billion, a less than 8 percent drop. The county work force actually increased.

AMIDST THE howling about imminent disaster, crisis, and collapse, a few voices, prominently including the *Register's* editorial page, recalled that under Measure M, a half-cent sales tax increase passed in 1990, the Orange County Transportation Agency (OCTA) stood to bring in some $2.6 billion over the coming 16 years. In such an emergency, could not

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OCTA share a little of everyone's pain? More to the point, if the immediate need was anything like as desperate as nearly everyone in government claimed, was it not obvious that at least some of this Measure M money should be diverted from drawing board projects to help meet the immediate dire emergency? Stan Oftelie, OCTA's head, immediately declared that not one penny from Measure M could be used, bankruptcy or no bankruptcy. OCTA's light rail and other mass transit boondoggles were inviolable.

Public employee unions and big land developers, led by the Irvine Company, provided the lion's share of pro-Measure R campaign funds. The California Teachers Association admitted to spending $211,000, more than any other Measure R supporter or opponent. On the other side, the measure's opponents, although outspent more than 10-1, had heavy Republican backing. The county Republican Party parted ways with big business interests and devoted itself to defeating Measure R.

In the end, to no one's surprise, Measure R lost 3-to-2. A few days after the vote, again surprising only a few, pro-tax politicians came right back with their Plan B: *more taxes!* Supervisors Bergeson, Bill Steiner, and Gaddi Vasquez suggested sin taxes, hotel bed taxes, and other taxes. Fortunately, Supervisors Jim Silva and Roger Stanton, who may be the only people in the Hall of Administration at all interested in less government, put the kibosh on that. Unfortunately, Stanton stumbled when he said he was intrigued by the possibility of selling John Wayne Airport to OCTA. OCTA's Oftelie said he would consider buying John Wayne, which he valued at, an amazing coincidence, exactly what OCTA lost in the OCIP - $225 million. The airport should be sold, but not from one bureaucratized, taxpayer-financed government entity to another. The point is to re-connect the operation of these enterprises with reality, and that cannot be done without introducing market forces — real world economic considerations — into the equation. Oftelie displayed his sense of reality July 14 when he finally admitted, albeit grudgingly, that, well, yes, it *would* be legal for voters to re-allocate Measure M sales tax revenue away from OCTA's pet projects: "You can destroy the program," he commented sourly. "That's one way to do it." Somehow the looming collapse of the schools, of law enforcement, of the local economy, and domestic tranquility that so worries his colleagues doesn't bother Mr. Oftelie at all. For him, all that matters is his personal OCTA fiefdom.

The atmosphere has grown so thick with politicians' double-talk the voters are more suspicious and cynical than ever. One day, they are told, there is a "back-up" plan in case the tax increase fails. Then the word is no such plan exists. Finally, after the vote, it turns out that, yes, of course there was a plan all along. Politicians have never been known for scrupulous truthfulness, but this is getting ridiculous. A national epidemic of "read my lips" bald-faced lying to voters has created a real crisis: one of public trust in so-called public servants. It has become just too obvious that the system is run, first and foremost, for the benefit of those in charge, not for the public.

Consider Irvine, which likes to think of itself as the magnet for Orange County's best and brightest. During the 1980s, while city leaders were indulging personal ideological manias (Managua became a sister city; Mayor Larry Agran served on the board of the Democratic Socialists of America), no one was watching the checkbook: the city plopped $208 million into OCIP. It eventually lost $42 million, $343 per resident. Irvine schools threw $106 million at Citron, and lost $10.6 million, $487 per pupil. That's $15,000 per classroom. Irvine lost more money than any other city in the Citron melt-down. Ditto for the school district. Shades of Robert MacNamara and the Harvard Whiz Kids, but who is thinking of the interests of the people?

WHAT'S NEXT? With the defeat of Measure R, Orange County *should* now demonstrate that large local governments can be slimmed down in a way that results in savings *and* improved services. A first step toward restoring public trust in the system would be a thorough, honest, outside audit of county budgets and finances. For months, taxpayer advocates like the *Register* and the Committees of Correspondence (a grass-roots group) complained that the county could not present consistent information about how many employees were on the payroll and how much they got paid. This is inexcusable.

The highest duty of elected officials and of their administrative subordinates is to handle residents' tax dollars responsibly. In Orange County, the participants in OCIP either failed to exercise due diligence in keeping track of what Citron was doing with the money, or they weren't really worried about the risk. They demonstrated either incompetence or willful negligence. Wasteful, arrogant public agencies like OCTA and the rest must realize that they are stewards of taxpayer funds, not owners. Their proper title is public *servant*, a job, they should remember, it is a privilege to be entrusted to hold. Ultimately, it is the peoples' business to make sure that those they so trust understand this and are capable of performing accordingly. Those that do not understand it should go try to make an honest living in the private sector. CPR

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Rejoinder

Pure No Fault And Wage And Price Controls

Shawn Steel

I WOULD LIKE to thank *California Political Review* for this opportunity to respond to several arguments and contentions made in Mark S. Pulliam's "Bar Wars" (*CPR*, Spring 1995) and Michael Johnson's "A Strange Amalgam Takes on the Trial Lawyers" (*CPR Update*, Spring 1995).

In his discussion of three "Alliance to Revitalize California"-sponsored initiatives, Johnson says one proposal would "limit to 15 percent the fees lawyers could charge in quick-settling cases." He goes on to make the remarkable statement, for an article in a conservative journal anyway, that this "fee limitation measure will be impossible for the trial lawyers to attack without conveying the impression that they are indeed the self-serving bunch tort reformers want to restrain." He later frets that, if the initiative fails, "lawyers' incomes would remain unrestricted." Since when are conservatives embarked on a Naderite crusade to "restrain" and "restrict" the free market earnings of private individuals? — especially on the bogus moralistic grounds that lawyers, because they make money, are "self-serving" and thus fair game for statist-imposed "restraints" on their earnings. If that's all it takes, why not control all profits — and, for that matter, salaries and wages too? Aren't they all as easily labeled "self-serving" and just as justifiably in need of controls?

One of Nixon's worst legacies, wage and price controls, brought on massive dislocation of rational market forces, as such controls always do. It may be easy to stampede the public into "controlling" attorney fees, but then why not require that they charge no more than $25 an hour instead of just regulating contingency attorneys? Why not control other professions for that matter? Under what understanding of conservative principles is it fair or responsible to single out one part of one profession as Johnson says we should?

Another measure, Johnson writes, would give California "the first pure no-fault auto insurance system in the country ...." It seems to promise less trouble and contention, I suppose, but it seems paradoxical that some conservatives would encourage this further abandonment of the Anglo-Saxon juris-prudential tradition that holds individuals responsible for their actions that injure others. "No fault," of course, means just that: No one is at fault. Everyone is a victim. This sounds more Marxist, or perhaps New Age, than conservative. This is precisely the concern Bill Bennett raises regarding America's crisis of responsibility and the decline of our culture.

People ought to be held responsible for damages and injuries they cause. Those who cannot afford car insurance should not receive driver licenses or be permitted to have cars on the road. California does it backwards. Uninsured people are penalized and may lose their license *after* an accident, but not before. A proper reform would require insurance to drive a car in California, period.

FINALLY, CONSERVATIVES should perhaps take a closer look at one of the key individuals behind these initiatives. Bill Zimmerman, chief consultant for the "Alliance to Revitalize California," was also, for many years, Tom Hayden's chief consultant. Well known in left wing circles, Zimmerman flew to North Vietnam during the '60s to donate blood to the communists. His least radical campaign was one to elect Chicago's Mayor Harold Washington, a racist, left-wing Democrat. Given his track record, Zimmerman would seem more at home working with the trial lawyers than against them, but the left has a long tradition of eat-

Shawn Steel is Treasurer of the California Republican Party and Secretary of the California Lincoln Clubs.

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ing its own. If Zimmerman and the trial lawyers had a falling out, he found a profitable means for exacting revenge. He somehow convinced several Silicon Valley entrepreneurs that California needs automobile tort reform. How that serves the interest of software entrepreneurs is hard to figure, but as chief consultant, Zimmerman stands to make considerable fees by promoting three initiatives instead of one.

Originally, the central concern of the initiatives' Silicon Valley backers' was ending vexatious shareholder class action lawsuits used against their new, vulnerable, high-tech companies. This reform would affect few people and, in fact, *would* discourage meritless suits that damage California's high-tech industries. However, the attorney fee price controls and elimination of negligent drivers' responsibility seem rooted directly in Zimmerman's socialist thinking. Republicans and conservatives have no business supporting pure no fault or attorney wage and price controls. It may seem a convenient device for punishing historical enemies among trial attorneys, but at too high a cost: supporting the very socialism we oppose.

Since when are conservatives embarked on a Naderite crusade to 'restrain' and 'restrict' the free market earnings of private individuals?

Litigation Explosion?

Mark S. Pulliam's "Bar Wars" repeats the great myth that California suffers from a "litigation explosion." In testimony given last March, Deborah Hensley of the RAND Institute for Civil Justice told the Assembly Judiciary Committee that civil filings were down in California since 1987 and that the phrase "litigation explosion" was misleading. The state constitution requires California's Judicial Council to report to the governor annually on the business of our state courts. These reports supply the statistics most frequently cited in the tort reform debate. Civil case filings, the only relevant numbers in this case, break down by category: total civil filings, total personal injury filings, total death and property damage filings, and total motor vehicle filings.

The 1994 Annual Report of the Judicial Council shows that since the peak year of 1987 personal injury and wrongful death filings in Superior Court have dropped dramatically, plummeting from 137,379 cases in 1987 to 88,346 cases in 1993. During the same period California's population grew from 27.8 million to 31.5 million. *Per capita* filings in personal injury and wrongful death cases have thus dropped 43 percent in six years. In 1993, civil filings for personal injuries resulting from motor vehicle accidents dropped 24 percent in one year, according to the 1994 Annual Report of the Judicial Council. Mr. Pulliam points out that despite these drops in personal injury and death cases, filings in a third category — "Other Civil Complaints" — have risen fast enough to offset the declines reported by the Judicial Council. But these initiatives do not address these "other civil" filings. Auto accident filings are way down.

The March 7, 1995, *Wall Street Journal* described several horror legal cases frequently cited by tort reform advocates. One, a widely-published tale of girl scouts sued by predatory lawyers, is disputed by Girl Scouts of USA Communications Director Bonnie McEwan. "It is not true at all," McEwan said, "that we have been barraged with frivolous lawsuits. This is absolutely not the case." The American Tort Reform Association has run radio ads throughout the country, highlighting the well-known case in which an Albuquerque, New Mexico, jury awarded $2.9 million to an elderly woman who spilled McDonald's coffee on her lap. What the ads ignore is that the judge slashed the award more that 75 percent and that the case settled for an undisclosed sum.

Moreover, California is not a particularly litigious state. In 1994, the Commission on the Future of California Courts reported that "on a *per capita* basis, Californians are only marginally more litigious than they were in 1960. Indeed, Californians enjoy a civil dispute filing rate of only 6,000 cases per 100,000 residence, well below the national medium." California ranks 13th, between South Dakota and Kentucky.

IT IS hard to see in such a threadbare litigation "crisis" any justification for the non-conservative, anti-free market, and anti-personal responsibility proposals currently flying under the "tort reform" banner. A system that imposes no liability also imposes no responsibility. Our legal system provides a method to encourage personal responsibility. Where reforms are needed, they should be crafted to address real problems without involving us in more government controls or in unreasoned lawyer-bashing. The temporary fun that provides will not prove worth the cost. CPR

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The Mephistophelian

WILLIE BROWN

BY JOHN KURZWEIL

WILLIE BROWN'S public *persona* resembles Goethe's Mephistopheles: humorous, civilized, wicked perhaps, but somehow enthralling even so. Above all, he is the shrewd competitor, a consistent winner, somehow always fighting his way through against impossible odds, making his opponents, in one of his own colorful phrases, "look like eunuchs." It's a remarkable image for a man who, in reality, has been losing consistently, especially lately: Last fall he lost his majority in the California Assembly, largely as a result of his earlier failure to sustain California's anti-democratic gerrymander (and, even earlier, the loss of Rose Bird, his powerful ally in overturning inconvenient election returns). He also lost on term limits, with the public and in the courts. All the while, too, his Party has been losing the long-term battle with Republicans over partisan registration in California as well as the battle for the voters' support on the issues: from racial preferences at U.C. to big government in all its forms, the American people are leaving liberal Democrats behind, as registration figures attest. All this losing has added up to end Brown's expectation that he would, as he put it, "go to my grave as Speaker."

In a democracy, losing every battle is supposed to mean going into the loyal opposition, but not for the majestic Willie Brown. Sometime soon after Californians elected 41 Republicans to represent them in the Assembly, he set his sights on the audaciously anti-democratic objective of nullifying that decision. It took the illegal expulsion of a duly-elected member of the Legislature, the suborning of a series of Republican Benedict Arnolds, flouting long-standing Assembly rules, and the orchestration of a demeaning burlesque, the Doris Allen "speakership" — a rough equivalent, in what it says of Brown's respect for California's electorate, of students electing a goat as homecoming queen to show their contempt for the processes and traditions of their university. Mr. Brown's approach to democracy recalls the Soviet Union at the Olympics: even if you leave the place in shambles, just win any way you can.

Ah, but hear this performance described in the press. On the Doris election, the *Los Angeles Times's* George Skelton wrote of Brown working "his magic" using "skills honed by decades of political maneuvering" to achieve "a classic divide and conquer strategy .... no rational person ... should be surprised or offended. This is what Brown does and always has done ...." At least Skelton seems aware that Brown's virtue may need defending. Not so the *Times* editorial page: "Even as he relinquished the title of Assembly Speaker," it purred, "Willie Brown dazzled with his ability to hold onto power." The *New York Times* tops them all, gushing over Brown in the midst of his Allen farce: "He worked the crowd much as he has worked the Assembly for the past three decades, glad handing, back slapping, sweet talking, quipping here, whispering there, and flashing his 1,000 watt smile .... Now 61 years old, he looked hardly a day over 50 out there in the bright sun, such was his joy at doing what he does best, what he does far better than most." Mephistopheles? In New York, Willie sounds more like Gabriel.

BROWN'S CHEERING section focuses almost exclusively on form, while his critics tend more to address the substance of what he does. Brown *does* have his detractors, and not all of them are Republicans, not even are all of them irrational, George Skelton's wisdom notwithstanding. Willie's wheeling and dealing with such hobgoblins of left-wing demonology as the tobacco companies long ago tarnished him for many on the

John Kurzweil is editor of California Political Review.

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left. It also helped bring on his Party's decline, as some of its wiser adherents, in candid moments, admit.

"It's important to point out," wrote former Democrat political advisor William Bradley in the *Los Angeles Times,* "that [Brown's] personal reign not only coincided with the decline of the Democratic Party and the rise of public disgust with the political system in this state, but contributed greatly to it .... The 'Ayatollah of California politics,' as he referred to himself, turned the State Capitol into a casino for the auctioning of access and brokering of interest." Doing what he does best, indeed; what he does far better than most. Just, please, don't be offended, don't be irrational.

DURING THE Fourth of July weekend, the Arts & Entertainment cable T.V. network re-broadcast its "Biography" series episode on George Washington. One of the most powerful themes of this great man's life is his wonderful understanding that holding office is a matter of giving service. By the end of his second term as president, Washington could have waved his hand and become king or emperor or whatever he wanted for life. Such a prospect, which he knew full-well was his for the taking, by all accounts turned Washington's stomach, and not just because he preferred the quiet life of Mt. Vernon. He knew it would destroy every principle for which he had risked, fought, and sacrificed so much for so long. He would have become the very thing against which he had struggled his whole life.

Early in the "Biography" program, we are told that Napoleon, on his deathbed, complained that his critics wanted him "to be another Washington." Probably it is too much to hope that sophisticated political journalists would understand what was bothering Napoleon's critics. But it certainly is not irrational for normal people to be offended and to criticize and to de-throne at the earliest opportunity men like Willie Brown, men for whom public service is really just self-service. Mephistopheles, recall, is himself a sort of liberal gloss, designed, as C.S. Lewis remarked in his preface to *The Screwtape Letters,* "to strengthen the illusion that evil is liberating." The real Willie Brown is more like Faust, who, as Lewis put it, "really exhibits the ruthless, sleepless, unsmiling concentration upon self which is the mark of Hell."

Where Paul Horcher's clean break with the Republicans following his vote for Willie Brown provided clear battle lines, Doris Allen's pretense of remaining a Republican seeks to cloud the issue in her favor. The tactic won't fool the voters or change the outcome of her recall. But politicians often lack the voters' common sense. With the media devoting itself mostly to huzzahs for Willie Brown and snickers at the "ineptitude" of those poor, outclassed GOP leaders, by mid-June a few Assembly Republicans, notably Brian Setencich of Fresno, began showing signs of losing the thread. At this point, a few individuals, including myself, established a committee. Its purpose was, and remains, to remind anyone who cares to listen that the issue is not whether Assembly Republicans have their act together or whether Willie Brown does what he does better than most, but that Horcher and Allen both collaborated with the Democrats against the people to overturn November's mandate, that this constituted a gross affront to our democracy, and that it was exactly the sort of behavior that had already convinced millions of Californians from all parties that our "representatives" had forgotten whom they served. We christened the group "Recall Republican Traitors," clarity being the best defense against Willie-inspired obfuscation. Paraphrasing Thomas More in *A Man for All Seasons,* I told someone who objected to the word "traitor" that, admittedly, it is not a likeable word; it is not a likeable thing, but what purpose would be served by hiding what was happening behind euphemism?

The committee asked Republican Assemblymembers to sign a statement, soon dubbed the "No More Horchers Pledge," to inform voters that they intended to support their own caucus in leadership votes, especially for Speaker; putting it the other way: that they would not betray their Party on the fundamental issue of controlling the Assembly. Soon after the pledge appeared, a letter appeared on the FAX network from Brian Setencich, reproduced here in full:

Brian Setencich, Republican Whip, Assemblymember, 30th District — June 25, 1995

Dear Member:

I have repeatedly asked my colleagues in the State Assembly to heed Abraham Lincoln's advice: *"A house divided against itself cannot stand."*

In an effort to bring peace to the floor, I accepted the position of Speaker pro Tempore because I believe it is imperative that we restore respect and civility in the State Assembly.

As Speaker pro Tempore, I will not tolerate the juvenile infighting and the petty differences which have brought legislative business to a stand-still in Sacramento. Once again, the budget is late because individuals are more concerned with their power and prestige than performing the business essential to the well-being of the people of this state.

MAKE NO mistake about it. I am a conservative, independent Republican. No one is going to tell me how to think or act or vote. I am nobody's puppet and I will not succumb to the pressure of those who have demanded that I sign a loyalty oath to a king-pin chosen

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by a majority of the caucus. I hold that signing loyalty oaths to personalities rather than principles is not only un-Republican but patently un-American. I will not be intimidated by the shunning of my colleagues who didn't get what they wanted when Doris Allen became Speaker. Nor will I bow or alter my current course due to threats of a recall or a Republican caucus boycott of my reelection to public office. Such are the politics of intimidation and I will not be intimidated.

My constituents know where I stand. I promised that I would tell the truth and give them hell in Sacramento and that is exactly what I am doing. I will not succumb to the threats of special interests who have vowed to drive me out of office. I was taught the American spirit is not based on fear, but rather on courage, faith, and a persevering determination to do the job at hand.

The job at hand is to cut taxes, reform welfare, downsize government and make this state friendly to business and agriculture. Under Speaker Allen, the Assembly voted for a 15 percent tax cut. Under Speaker Allen, virtually all policy making committees are controlled by Republicans who are now in the position to implement positive, conservative policy. All I ask is that she be given a chance.

Speaker Allen states she has only agreed to offer the Democrats a fair shake. Most of my Republican colleagues contend we need a Republican Speaker who will mistreat Democrats like Willie Brown mistreated the Republicans for the last decade and a half. I do not believe I was elected to the State Assembly to seek revenge on the Democrats but rather to implement the reforms essential to better this state. Only then can we find constructive resolutions and solutions to the challenges we face.

I am proud to be a Republican, and I will not let the self-serving infighting in the State Assembly usurp my legislative program. I believe we must totally re-write The Endangered Species Act because we must put jobs and the economy before rats and weeds. I strongly believe that we must get drug addicts and alcoholics off the public assistance roles so that the elderly, the blind and the physically and mentally challenged receive the means of living they deserve. I presided when the State Assembly passed a tax cut which will spur economic growth and create jobs by allowing people to re-invest in our economy. I support stripping prisoners of their rights, including conjugal visits and tax-paid recreational activities.

ANDREW JACKSON once wrote, "If you would preserve your reputation, or that of the state over which you preside, you must take a straightforward determined course regardless of the applause or censure of the populace and of the forebodings of that dastardly and designing crew who, at a time like this, may be expected to clamor continually in your ears...for one man with courage makes a majority."

Rather than listening to all the political strategists who are telling me to "get back in the fold," I have decided to heed that great President's advice because in my heart I know it's right to stand up for what you believe in ... even if you must stand alone.

Brian Setencich, Assemblyman, 30th District

MR. SETENCICH having, I thought, missed a few key points, I dispatched the following response the next day:

An Open Letter to Hon. Brian Setencich [sent to all GOP Assemblymembers]:

Abraham Lincoln did not place unity above principle; if he had, he could have preserved the union by the simple expedient of refusing to run for president.

Similarly, peace could be brought to the Assembly floor by Republicans simply never contesting the Democrats' control of it. Your decision to join Doris Allen's collaboration with Willie Brown, however, will not stop the rest of the Republican Party from standing for Republican principle even at the cost of disturbing your peace.

Your insinuation that Republicans are responsible for division and the loss of civility in the Assembly is either grossly insulting and hypocritical or ample evidence of your naivete and inexperience. Can even a legislative newcomer like yourself have failed to notice that this incivility began with Willie Brown's and the Democrats' illegal, anti-democratic expulsion of duly-elected Assemblyman Richard Mountjoy?

Did you not see that it has grown steadily through the Democrats' ruthless campaign of flouting long-standing rules, suborning Republican betrayals, and now firing and threatening to fire staffers and throwing people out of committee posts unless they sign onto just the kind of loyalty oath you say you decry, this one a pledge to support the Willie Brown-controlled, farcical "Doris Allen" speakership — all in a desperate effort to overturn the verdict of California's voters, to hold onto power at all costs, and to disrupt Republican efforts to win more elections in 1996?

This is the "high road" you have chosen and now ask your Republican colleagues to join you in traveling. Please do not compound the insult by appealing to "civility," "maturity," and, of all people, Lincoln.

Regarding "loyalty oaths to personalities rather than principles," if you refer to the pledge this committee has circulated, you have it exactly backward. As the voters who recalled Paul Horcher and those who will recall Doris Allen well know, these two betrayed Republican principles, not personalities. They were motivated by exactly the kind of concerns over power and prestige you say you dislike, and sacrificed Republican principles to serve those concerns. This much is obvious. How is it you cannot see?

Also, the pledge we circulate is only an opportunity to inform voters where you stand. Refuse to sign it if that is what you think is right. My only concern is that the voters know where their representatives stand on this question, on what they perceive to be "principled" behavior, on where they believe their loyalty lies. I think

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you will find those you represent will disagree with you, but if you can convince them you have chosen rightly, great; I wish you a long and pleasant time in public service. I only ask that you refrain from mislabeling what this pledge is, hypocritically portraying it as exactly the thing it diametrically opposes, and above all shamefully attempting to portray your fellow Republicans, men and women genuinely dedicated to principle over personality, as the opposite of what they are.

You say you are willing "to stand alone." Look around you; you are not alone. CTA hacks are there with you; staff members of betrayer Paul Horcher are with you; sworn enemies of any attempt to "re-write the endangered species act" and of every other reform you say you support are enthusiastically with you. Above all, Willie Brown is with you. You are being used. In the name of principle, come home before it is too late.

John Kurzweil, Recall Republican Traitors

IF WILLIE can tempt, perhaps it's all right for others to urge reform. Anyway, as matters stand, Allen will be recalled in the fall. Then Mr. Setencich will have to choose: either to become Paul Horcher number three, or, let us pray, to return home. CRP

ARTS & CULTURE

CRITICUS

Free Willie

or

Dying Words in Five Acts and an Epilogue

BY G. B. TENNYSON

I have been a most unconscionable time a-dying; but I hope you will excuse it.
— last words of Charles II

IT IS doubtful constant readers will excuse the length of time it has taken Willie Brown to die as Speaker of the California Assembly, but the long drawn-out affair has had the unexpected benefit of making the *CPR*-Criticus Willie Brown Literary Competition more or less eternally timely, rather like the Speaker himself. Still, all good things must come to an end (which is perhaps why the Speaker is exempt), so even if the wily Willie is still as you read this taking his own unconscionable time a-dying, the competition is over and the winners may take their bows.

Although only three categories were announced — poetry, essay, and political campaign ad copy — contributors showed such a range of invention (or was it just a Willie-like disregard of the rules?) that the winners' entries, somewhat condensed to fit available space, appear below in five categories, considered as acts in an unfolding drama, each advancing the case for doing away with Willie more entertainingly than the one before. The epigraphs to each winning entry have been supplied by Criticus himself after careful

G. B. Tennyson is professor of English at U.C.L.A. and co-editor of Nineteenth Century Literature.

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culling of the many recorded last words of the great and infamous.

ACT I

Why weep you? Did you think I should live for ever?
— Louis XIV

Winner
William F. Buckley-style Essay Contest

KING WILLIE

THE GREAT man saunters through the alcove with an occasional nod to the minions as they scurry by, busily performing the duties bestowed upon them by "him." A supernal glow engulfs the man.

He has, contrary to the pundits, maintained his reign. Disregard such antiquated notions as democracy, disregard its arcane folly. Those who attempted to wrest his endowed power were delusional to question the ferocity of his wrath.

Would they, in their insolence, rationally portend that they could abscond with that which has been ordained? That which has been written?

But alas, it has been a long day. It is a precarious task he has undertaken, the circumventing of democracy. So even he must take pause. The throne shall await his repose until the dawn. King Willie retires to ponder the forthcoming insignificant inconvenience: term limits.

Joe Fitzpatrick
Lakeside

ACT II

A strange sight, sir, an old man unwilling to die.
— Ebenezer Elliott

Winner
(hitherto unannounced)
Obituary Contest

OBITUARY FOR A DEAR PHILOSOPHY, NOW DEPARTED

Willie Brown's Philosophy, the Democrats' love — bureaucracy and tax increases — is dead. Cause of death was voter rejection.

Although Brown's Philosophy for years suffered a lingering illness (known as Brown's Disease), many thought it would recover: until 1994, that is.

While it lived, Brown's Philosophy contributed to worthy causes, using other peoples' money. In 1994, Brown said assembly members were underpaid. Their $52,000 salaries, he said, supplemented by expense money, benefits, state-paid cars, and goodies from lobbyists, should be raised to $95,214 because judges earned that much. (They raised their salaries to $72,000.)

Brown's Philosophy helped the needy in other ways. Brown appointed outgoing Assemblyman Mike Gotch's wife to a $95,000 Integrated Waste Management Board job. Like all Brown's tireless efforts to expand government, it helped lower California's unemployment rate — among bureaucrats.

The rich legacy of Brown's Philosophy includes millions shifted from county coffers to the state, critics assigned the smallest offices in the Legislature, millions in legal fees and honoraria — no cause was too big, or too small.

With admirable devotion, Brown carries on as if his Philosophy still lived: standing firm for reverse discrimination and against increased penalties for carjackers. Willie Brown, we salute you!

Caroline Miranda
North Hollywood

ACT III

Nurse, nurse, what murder! What blood! O!
I have done wrong: God pardon me
— Charles IX of France

Winner
(hitherto unannounced)
Octosyllabic Couplet Contest

THE SPEAKER, UNREPENTANT

Retire? Not me ... I say let others
Raise that mournful chant; those mothers
Never sipped at founts of power,
Never climbed that awful tower

Where pride propels each artful step
— Must keep in touch (O Yeah! Stay hep!)
Yet raised to heights where audacity
Mingles dizzily with veracity

Till none can say for sure what's meant
Except he stands for GOVERNMENT
Such peaks bring forth propensity
To take in all that eye can see ...

When lo! arose that concept vile
Term Limits — yecck, how juvenile

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To put us polished pols in place?
No way! You'd soon forget my grinning face

So I'll not be trumped, I'll not be beat
I'll just go back to Market Street
And nourished in rich Fillmore loam
Rebuild my roots in a liberal home

For what could be more fair
Than serve as San Francisco's mayor?
I'm super-suited for the job
I know the press, I've massaged the mob

From me there'll be no dumb l'envoi
As I keep pace with the hoi polloi
I've milked the 'fair play' for all it's worth
It's I, not the meek, should inherit the earth!

James L. Sharp
Lafayette

ACT IV

I suppose I am now
becoming a god
— The Emperor Vespasian

Winner
Los Angeles Times-style Editorial Contest

ANOTHER INNOCENT VICTIM OF RACISM

Willie Brown: modest, self-effacing, traveling the high road. His honesty, integrity, sense of fair play, and intellect place him among California greats Alan Cranston, Maxine Waters, Jerry Brown. But for term limits, and white racism, Willie Brown would have been Speaker for life.

Contrast the Republican-Brulte Assembly power grab: ultra-right arrogance and abuse, fighting every progressive reform the Speaker has sponsored. Speaker Brown tried to mind fences, for instance appointing the conscious-driven Paul Horcher to the powerful Ways and Means Committee. GOP bigots only threw immature temper tantrums. We long for the co-operative, compassionate days when Governor Wilson and Speaker Brown passed tax increases in peace ....

G. E. McCulley
Long Beach

ACT V

If Mr. Brulte calls, let him in;
if I am alive, I shall be very glad to see him,
and if I am dead,
he will be very glad to see me
— Lord Holland (slightly adapted)

Grand Winner
Poetry Contest
(in the style, rhyme, and metre of Dylan Thomas's "Do Not Go Gentle into that Good Night," i.e. the verse form known as the *villanella)*

DEPART PROTESTANT INTO THAT SCORNED RIGHT

Depart protestant into that scorned right,
Br'er Brown must seem to beg, lapin at bay;
Plead honest terror of the briar's sharp night.

Sincere politicos curse wealth and might,
Yet change their souls for just such feet of clay;
Depart protestant into that scorned right.

Remus avuncular, with sage delight,
Advises feigned contempt of what you crave;
Plead honest terror of the briar's sharp night.

Oratorizer-domo, though corrupting truth
for spite,
Exploit decency in others so that you may
have your way;
Depart protestant into that scorned right.

Your heart of hearts is lusting for the track
side's right,
That discriminating patch where the poor
are kept away;
Plead honest terror of the briar's sharp night.

And you, Br'er Willie, on Sacramental height,
Warn, coax, us now with your sly talents fey;
Depart protestant into that scorned right.
Plead honest terror of the briar's sharp night.

Richard Morgan
Santa Monica

EPILOGUE

Light, more light!
— Goethe

Our revels now are ended,
But Willie still hangs on,
His speakership suspended,
Yet not quite fully gone:

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He's got his catspaw Doris
To spark Assembly fun;
He's got the press corps chorus
To cheer his mayor's run.
The knave's a great conniver
Who plays a cunning shtick,
But he should know that "Willie"
Is British slang for p - - - -.
Like the man who came to dinner
Willie's past his sell-by date.
Pray, Lord, dispatch the sinner
From the bridge at Golden Gate.

G.B. Tennyson

BOOK REVIEW

Flunk the Whole Class

BY DAVID F. FAUSTMAN

THE LATE William Henry, a Pulitzer Prize winner who for many years was *Time's* cultural writer, was a liberal, a registered Democrat, a card-carrying member of the ACLU and a supporter of "abundant left-of-center social causes." Yet, just prior to his death, this liberal intellectual, like many others (Horowitz, Collier, O'Rourke), began to ask whether current leftist dogma — political correctness, multiculturalism, egalitarianism — was consistent with his "liberal" view. "Somewhere along Bill Clinton's path to the White House," Henry wrote in this 1994 book, "it dawned on me that the term 'elitist,' which I had matter-of-factly applied to myself and most of my liberal Democratic friends for decades, has come to rival if not outstrip 'racist' as the foremost catchall pejorative of our times." To liberals, "elitist" is synonymous with fascist, racist, sexist. Conservatives accuse liberals of "elitism," forgetting that many on the left want to abolish IQ tests.

David F. Faustman is an attorney practicing in California and a commentator on legal business issues.

Thomas Sowell attacks liberal judges as "an anointed elite who brazenly attribute their own policy preferences to the Constitution." Sowell should learn from P.J. O'Rourke's porcine twist on the issue, by which he avoids the word entirely: "Anyone who thinks he has a better idea of what's good for people than people do is a swine."

IN DEFENSE OF ELITISM
by William A. Henry III
Doubleday, 1994, 212 pages, $18, cloth

While the definition of "elitism" as used as a universal epithet is indeed in a state of confusion, author Henry is gravely concerned about modern society's attack on his cherished concept of elitism: "intellectual distinction-making ... the willingness to assert unyieldingly that one idea, contribution or attainment is better than another." He admires the kind of "elitist" who "does not grade on a curve, and is willing to flunk the whole class."

Henry asserts that since World War II, "every great domestic policy debate has revolved around the poles of elitism and egalitarianism," and concludes that "egalitarianism has been winning all too thoroughly." The author believes America has been seduced by the "Vital Lie" — the unexamined notion that "everyone is pretty much alike (and, worse, should be), that self-fulfillment is more important than objective achievement ... that a good and just society should be far more concerned with succoring its losers than with honoring and encouraging its winners ...." He finds the nonsense that stems from such premises now permeates our institutions.

Education

Education, properly conceived, is necessarily elitist. But, "the same quixotic liberalism that led to the 'deinstitutionalization' of genuine lunatics, who now stand on street corners swaying and talking to themselves, has taken hold of public education." He notes that "ac-

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complishment is not objective, and standards are not fixed. The governing principles are ideology and sentiment." So-called multiculturalism fosters a "paranoid sense of victimology," and "promote[s] pseudo-scholarship based on gender anxiety and ethnic tribalism." Universities should be "museums of clear ideas" not soapboxes for "hazy and tribalist" hacks who seek to replace honest history with "narcissism and self-congratulation." Elementary and secondary schools, also infected, "are far less concerned with the educational needs of the children they teach than with the political yearnings of the adults who lobby them."

> Teachers who once viewed their work as akin to a religious vocation are increasingly unionized and intransigent toward extra work .... School administrators ... now see their institutions ... as rehabilitation centers obliged to make up for the social and psychological deficiencies of some parents, the ignorance and bone idleness of others, the economic privations of others still, and the myriad unkindness of nature.

The Media

In the mass media, as on the campuses, "tribalism and hypersensitivity are ... conspicuous, and the result is the same: a deadening of rhetoric and a suppression of information." Authors and publishers are engaged in a "grand truckling to political correctness at the expense of accuracy." The media is engaged in "dumbing down" our intellectual life.

> [A] generation of elitist editors and writers who saw journalism, both print and broadcast, as a sacred opportunity to teach and uplift the citizenry has been supplanted by a mob of shameless panderers who "edit" by readership survey.

The media pursue "the young and the stupid" with "news you can use" though we need a "renewed reverence for fact, for knowledge, for citizen awareness." Henry also realizes that much of what passes for "news" is pure fraud: little staged events and third rate skits by "activists" that only occur because the media plays along, reporting the "event" as a happening unto itself and promoting the politics of anti-elitism. We have responded with self-doubt. Winners feel guilty, losers can excuse their failure, and "self proclaimed victims of society" lose sight of the free will component of their fate.

"No one ever went broke," Mencken said, "underestimating the intelligence or taste of the American people." Mencken's paper, the *Baltimore Sun*, of course, just went out of business. The decline in the number of households that receive newspapers troubles Henry, and one is sure that he would be appalled at the notion that "more Americans get their news from ABC News than from any other source" (with apologies to Britt Hume, George Will, and John Stossel).

Law

Henry decries the "lottery mentality" that has made tort law little more than "an expression of the belief that the only way to get rich is quick."

> The airwaves are awash, especially in daytime when the unemployed and indigent are a larger percentage of the audience, with commercials soliciting cases for cheapjack personal injury lawyers.

The cheapening of our legal system is a source of "moral corruption" and a cause of "further erosion of personal responsibility in favor of the idea that life is luck."

Misguided egalitarianism has also perverted civil rights litigation, an arena where unequal results often equate with illegality. "Underlying this effort is the unexamined assumption that talent is distributed absolutely evenly across lines of class, race and gender and that differences in performance reflect only differences in opportunity, not differences in ability."

Employment

The notions that "all groups are equal" and that "results in life should be equal" creates the "double bind" for affirmative action. The result is the creation of pernicious "ameliorative mechanisms that ... enshrine the notion that groups are not equal and probably never will be." Though perhaps well intentioned, "affirmative action breeds racial resentment on both sides" and an inevitable erosion of personal responsibility.

> Anyone who has ever spent a week involved in personnel matters knows that there is hardly an employee alive who sees his sidetracking as resulting from his own weaknesses .... it's always and automatically prejudice that debars them. Only sometimes are they right.

WE NEED elitists who "ruthlessly seek out and encourage intelligence and who believe that competition — and, inevitably some measure of failure — will do more for character than coddling ever can." American culture is superior, and such must be asserted. After all, "the rest of the world wants to come here because America ... is culturally better." Henry reminds us that "it is scarcely the same thing to put a man on the moon as to put a bone in your nose." Henry concludes: "The defense of elitism ... is ultimately nothing more than the defense of common sense." CPR

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